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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/481,814

01/11/2000

Juin-Jet Hwang

ATL-130re

6144

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7590

10/14/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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EXAMINER

RAMIREZ, JOHN FERNANDO

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

10/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/481,814	<b>Applicant(s)</b> HWANG ET AL.	
	<b>Examiner</b> JOHN F. RAMIREZ	<b>Art Unit</b> 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/09/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-25 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/15/00;12/13/07;02/01/00</u>                                 | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

**Claims 1-25 are rejected under 35 U.S.C. 251 due to the following defective reissue guidelines.**

(1) Declaration

The Reissue Declarations filed 1/9/06 failed to properly identify at least one 35 U.S.C.251 error. It is not sufficient for an oath /declaration to merely state ".....result from the failure to specifically claim ultrasonic methods which use pulse sequences of three or more pulses, and the failure to claim the benefit of the priority provisional application in the specification. Sequences of three or more pulses are described in columns 5 and 6 of the issued patent and are the subject of newly added Claims 5-25." Rather, the oath /declaration must specifically identify an error. See In re Constant, 827 F.2d 728, 729, 3 USPQ2d 1479 (Fed. Cir.), cert. denied, 484 U.S. 894 (1987). Any error in the claims and specification must be identified by reference to the specific claim(s) and the specific language wherein lies the error. The error statement in the reissue oath or declaration of 1/9/06 would not be considered a sufficient "error" statement since applicant has not pointed out the differences between the newly amended claims 5-25 and the original claims 1-4. (MPEP 1414). Such a statement would be no better than saying in the reissue oath or declaration that "this application is being filed to correct errors in the patent which may be noted from the change made by adding new claim 10." In both cases, the error has not been identified. The examiner should reject all claims under 35 USC 251 for lack of or improper 251 error statement.

(2) Supplemental Declaration

A supplemental oath/declaration under 37 CFR 1.175(b) (1) is needed to cover errors corrected by amendment filed 1/9/06 (add or delete limitations in claims and add or delete claims after filing the Declaration on 1/11/00). Form paragraph 14.05.02 may be used for this matter. To cure this defect, applicant should use Form PTO/SB/51S which maybe downloaded from the USPTO website. See MPEP § 1444 for handling supplemental oaths/declarations.

The reissue claims broaden the scope of the patented claims in at least one respect even though they are narrower in other respects. MPEP 1412.03(I). Therefore, the Supplemental Declaration must be signed by all inventors (not the assignee). MPEP 1414.01 (III). See also In re Hayes, 53 USPQ 2d 1222.

(3) Certificate of Correction

A Certificate of Correction was issued in the original patent on 3/2/99. The applicant is required to include any changes, additions, or deletions that were made by a Certificate of Correction to the original patent grant in the reissue application without underlining or bracketing. In this instance, the applicant has not included the changes made by the Certificate of Correction. See also MPEP 1411.01.

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 5706819 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

### ***Response to Amendment***

Applicant's arguments, see remarks, filed on 01/09/06, with respect to claims 1-2 rejected under section 103(a) have been fully considered and are persuasive. The rejection has been withdrawn.

In relation to claims 5-6 rejected under section 102(b) have been fully considered and are persuasive. The rejection has been withdrawn.

The rejection of claims 11-12, 15-16 and 19 under 35 U.S.C. 112, second paragraph has been withdrawn after reviewing the new amendments to the claims.

***Allowable Subject Matter***

Claims 1-25 would be allowable if applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with to overcome the rejection(s) under 35 U.S.C. 251, set forth in this Office action.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN F. RAMIREZ whose telephone number is (571)272-8685. The examiner can normally be reached on (Mon-Fri) 7:00 - 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN CASLER/  
Supervisory Patent Examiner, Art  
Unit 3737

/J. F. R./  
Examiner, Art Unit 3737